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SUBJECT: COLOMBIA MAKES SUCCESSFUL TRANSITION TO ACCUSATORY
LEGAL SYSTEM

11. Summary: On January 1, 2008, Colombia initiated the final phase of a four-year, phased implementation of its new Criminal Procedure Code which introduces an accusatory criminal justice system. Implementation of the new system, which began on January 1, 2005, has largely been viewed as a success. Where implemented, it has reduced the time needed to resolve criminal cases by over 75% and boosted conviction rates to 60%, up from 3% under the old system. The recent guilty verdict of 15 Colombian military officials in the Jamundi case shows the new system's capacity to handle complex criminal cases. USG assistance has been critical to the successful implementation of the new system, but continued support will be needed to ensure remaining management, infrastructure, and cultural challenges are overcome. End Summary.

Final phase: Accusatory System Implementation

12. On January 1, the fourth and final phase of the implementation of the new Colombian Criminal Procedure Code -- which introduces an accusatory system -- began in the judicial districts of Barranquilla, Cartagena, Cucuta, Monteria, Quibdo, Pamplona, Rioacha, Santa Marta, Sincelejo, Valledupar, and Yopal. The new Code is applicable to crimes committed in the new districts after January 1, 2008. Crimes committed prior to the Code's implementation will be prosecuted under the old inquisitorial system. Colombia will continue to operate two criminal procedure codes for several more years until the transition from the inquisitorial to an accusatorial system is complete.

13. The new Code has shown greater effectiveness by substantially reducing the time needed to resolve criminal cases. Where implemented, it has reduced the time needed to resolve criminal cases by over 75% and boosted conviction rates to 60%, up from 3% under the old system. Theft cases, on average, are resolved under the new Code in 69 days as opposed to 567 days under the old Code. Homicide cases are down from 493 to 116 days, and narcotics cases are down from 377 to 68. So far under the new Code, 70,560 formal charges have been filed, resulting in 38,163 guilty pleas, 6869 plea agreements, and 3810 trials with convictions.

14. The Jamundi case, in which 15 Colombian army officials were found guilty of murdering ten police officers who were a part of an elite anti-narcotics group, showed the new accusatory system works in complex, multi-defendant cases.

Despite numerous continuances, interruptions and interlocutory appeals, the case -- which involved the presentation of over 100 witnesses and 600 pieces of evidence -- was fair, transparent and relatively quick. The complete process -- from the time of the crime to the verdict -- took 20 months. Under the old system, the case would have remained in the investigative stage for several years. The media also had access to court proceedings as never before, ensuring transparency in a case where allegations of bias and favoritism were rife.

¶5. Hernando Torres, president of the High Superior Court, said 128,928 proceedings remain under the previous legal system (Law 600). The Prosecutor General's Office (Fiscalia) and judiciary have spent considerable resources dedicated exclusively to processing 10,000 cases monthly to clear out the backlog, but administrative delays could cause that to extend to 26 months. 440,083 hearings await processing under the new system by 1727 judicial offices in 19 districts. Larceny constitutes 35% of cases, followed by trafficking and consumption of drugs, personal injury, and perjury.

Significant USG Resources Breathing Life to Reforms

¶6. The Colombian judiciary spent over \$4 million from 2004 to 2006 to prepare for the transition, with an additional \$200,000 for court construction. U.S. assistance has strongly supported this process. Between 2004-2007, the Department of Justice (DOJ) trained 6896 prosecutors, 20,091 investigators, 1666 judges and 1331 forensics experts to implement the new Code and its accusatory system. This training has combined legal and conceptual study with

hands-on practical training using mock crime scenes, investigation scenarios, and court proceedings. Prosecutors, police, judges, and forensic experts have been trained in all districts implementing the new system. DOJ is also coordinating with the Fiscalia through a commission of prosecutors and investigators to monitor, evaluate, and continue training to ensure effective implementation. DOJ has provided office equipment to judicial districts totaling over \$1 million.

¶7. USAID's Justice Reform and Modernization Program (JRMP) also contributes to implementation of the new code and strengthening court administration. Since 2003, USAID has assisted the Colombian judiciary to modernize case management systems and to construct or refurbish 45 oral courtrooms across the country. In addition, USAID has trained Colombia's entire public defender corps - over 1600 attorneys. It has constructed and equipped public defender offices in Bogota, Cali and Villavicencio, with plans to assist the GOC to build or equip 16 additional public defender officers over the next three years. USAID has also established a national training school for Colombia's public defenders and investigators.

Challenges Still

¶8. The transition to the new accusatory system has been remarkably smooth given the complexities of the Colombian justice system. Still challenges remain regarding logistics, lack of sufficient personnel, inadequate court resources, and weak management. The transition is also more than technical, involving changing the mindset and culture of justice sector officials trained in the inquisitorial tradition. USG assistance remains critical in ensuring this historic change to Colombia's justice system is implemented effectively and thoroughly.
Brownfield